IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.6923 of 2003

Larsen & Toubro Ltd. Petitioners
Vs.
Civil Judge, Senior Division,
Pune & ors. Respondents

Mr.Pankaj Sawant with Ms.Ferzana Behramkamdin i/b M/s.FZB & Associates for petitioners.

Mr.V.N.Kantawala for Resp.Nos.2 to 5.

CORAM: B.H.MARLAPALLE,J.

June 19, 2006.

P.C.

. Heard Mr.Sawant, the learned counsel instructed by M/s. FZB & Associates for the petitioners and Mr.Kantawala, the learned counsel for respondent nos.2 to 5.

. This petition arises from the order passed by the learned Jt. Civil Judge Senior Division at Pune dismissing Special Civil Suit No.939 of 2001 and on the application filed by the defendant at Exhibit 34, under Section 9A of CPC, the learned Judge of the trial Court held that the petitioner-company has instituted Regular Civil Suit No.1562 of 2001 for perpetual injunction and Special Civil Suit No.939 of 2001 was instituted for specific performance under

the Specific Relief Act but without obtaining leave of the Court. The learned Judge noticed that the suit property in both the suits was the same and, therefore, to obtain relief from the Court, leave was necessary when Special Civil Suit No.939 of 2001 was instituted. The petitioner has brought on record the plaints of both the suits and para 2 therein is verbatim the same inasmuch as the suit property has been described as common in both the suits, though it was tried to be shown that the suit for specific relief was only in respect of the area admeasuring 1000 sq.ft. and marked in red on the sketch attached to the plaint.

. It would be, therefore, appropriate for the petitioner to approach the trial Court with an application to amend the plaint in Special Civil Suit No.939 of 2001 and also apply for restoration of the said suit. If such applications are made within a period of four weeks from today, the learned Judge of the trial Court is directed to hear the parties and decide the said applications as per law as expeditiously as possible and preferably within a period of three months of their filing.

. These applications will be heard and decided without being influenced by the impugned order. The order of status quo passed by this Court shall continue to operate till the applications are decided. Petition is disposed off accordingly.

(B.H.MARLAPALLE,J.)